

REMARKS

Claims 1 to 4, 7, 8, 13, 15 and 16 are pending.

No claims are allowed.

1. Claims 1 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Da Rold (U.S. Patent No. 5,968,049).

Da Rold relates to a milling cutter for medical purposes. The milling cutter comprises a milling body 2 as a dimensionally accurate hemisphere provided with a plurality of milling teeth 10 arranged on the body. In referencing the annotated portions of the office action, the examiner writes with respect to independent claim 1 that De Rold teaches "an intermediate cutting edge (18) spaced furthest from the shell having a hemispherical curvature". With respect to independent claim 15, the examiner writes that the cited reference has "the cutting edge defined by a plurality of cutting edge radii (i.e. portion of cutting edge formed on 13) that define a hemispherical shape".

Independent claims 1 and 15 have been amended to set forth that the curvature of the cutting edge is referenced with respect to the longitudinal axis of the cutting shell. In particular, claim 1 now calls for the "intermediate cutting edge having a second hemispherical curvature that is greater than the hemispherical curvature of the cutting shell and that is rotatable about the longitudinal axis." Claim 15 now sets forth that "the cutting edge [is] continuously defined from one buttress to the other buttress by a continuum of cutting edge radii that each have a focal point located on the longitudinal axis to thereby define a hemispherical shape." These amendments are believed to more clearly define that the claimed cutting

edge is not similar to the "hemispherical" shapes of the annotated drawings shown by the examiner.

Reconsideration of this rejection is requested.

2. Claims 2 to 4, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Da Rold in view of Salyer (U.S. Patent No. 6,001,105).

These claims depend from independent claim 1 and are patentable for that reason. The acetabular reamer described by Salyer is not believed to adversely impact that allowability.

Reconsideration of this rejection is requested.

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Da Rold in view of Mistretta (U.S. Patent No. D468,598) further in view of Braun et al. (U.S. Patent No. 4,116,200).

The applicants are of the opinion that this rejection is a clear admission that their remarks set forth in section 1 above remove Da Rold as an anticipating reference. The examiner clearly admits that "Da Rold discloses the claimed invention except for the intermediate cutting edge having a curvature that matches the curvature of the shell for the intermediate cutting edge's length until it meets the buttress." This is essentially a paraphrase of independent claim 1 calling for each cutting tooth comprising two buttress portions extending from the cutting shell and meeting an intermediate cutting edge having "a second hemispherical curvature that is greater than the hemispherical curvature of the cutting shell." The difference being that the claimed cutting edge has a "curvature" while Da Rold's edge 13 is planar, being defined by angle α .

That Da Rold's cutting edge is planar is apparent from a careful study of the reference. It is the applicants' position that the angle α formed between the cutting tongue 13 disposed in a bent position about the bending edge "a" is constant throughout the length of the edge from one corner 19 to the other. Since the angle α is constant, tongue 13, and consequently, edge 18 must be planar or linear, and not hemispherically curved.

In that respect, the applicants agree with the examiner regarding the deficiency of Da Rold with respect to the prior art cutting edge having a curvature. Moreover, that Mistretta has a cutting edge which is flat cannot be expanded to show a cutting edge having a curvature matching that of a hemisphere, particularly, as admitted to by the examiner, since there isn't any reference teaching that advancement.

Admittedly, the Braun et al. patent relates to an acetabular reamer comprising a plurality of cutting edges extending in an overlapping arrangement. Nonetheless, Braun et al.'s teaching does not fill the void between Da Rold and Mistretta on the one hand and the presently claimed invention on the other. To hold otherwise is tantamount to the examiner creating the claimed invention out of whole cloth under the guise of prior art totally lacking in a cutting tooth having a curvature according to the applicants' claimed invention.

Reconsideration of this rejection is requested.

4. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Da Rold in view of Mistretta.

Again, and further in support of the applicants' remarks set forth in section 1 above, the examiner admits that Da Rold lacks any teaching directed to a cutting "tooth having an arc cutting edge with a constant radius from the spherical center". That is essentially the inventive concept set forth in amended independent claim 15 calling for "the cutting edge being continuously defined from one buttress to the other buttress by a continuum of cutting edge radii that each have a focal point located on the longitudinal axis to thereby define a hemispherical shape."

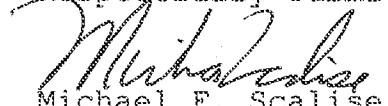
In any event, without some suggestion, teaching or motivation in the prior art, Mistretta's flat or planar cutting edge cannot be expanded to "an arc cutting edge with a constant radius" as set forth in independent claim 16. That such a cutting edge would be beneficial for a reamer is not found in Da Rold or any other prior art uncovered by the examiner. This means the examiner is essentially rejecting the crux of the claimed invention without any prior art even remotely related to a curved cutting edge for a reamer tooth. As discussed above, such a rejection rises above hindsight reasoning to one impermissibly derived from whole cloth.

Reconsideration of this rejection is requested.

5. The prior art made of record and not relied upon has been reviewed. However, it is not considered to be more relevant to the claimed inventions than the cited prior art.

It is believe that claims 1 to 4, 7, 8, 13, 15 and 16 are now in condition for allowance. Notice of Allowance is requested.

Respectfully submitted,


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